

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Bufter	Team: Team # 1	CCRB Case #: 200710771	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 06/24/2007 2:00 AM	Location of Incident: Outside § 87(2)(b)	Precinct: 73	18 Mo. SOL 12/24/2008	EO SOL 12/24/2008	
Date/Time CV Reported Fri, 07/27/2007 3:13 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/27/2007 3:13 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Mark Jablonski	25920	922540	067 PCT
3. POM John Tancredi	00192	924537	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Mark Jablonski	Abuse: PO Mark Jablonski stopped § 87(2)(b) and § 87(2)(b)	
B.POM John Tancredi	Abuse: PO John Tancredi stopped § 87(2)(b) and § 87(2)(b)	
C.POM John Tancredi	Abuse: PO John Tancredi searched § 87(2)(b)	
D.POM John Tancredi	Force: PO John Tancredi pointed his gun at § 87(2)(b)	
E.POM John Tancredi	Off. Language: PO John Tancredi made remarks to § 87(2)(b) based upon race.	
F.POM John Tancredi	Abuse: PO John Tancredi threatened § 87(2)(b) with the use of force.	
G.POM John Tancredi	Discourtesy: PO John Tancredi acted rudely toward § 87(2)(b)	
H.POM Mark Jablonski	Force: PO Mark Jablonski pointed his gun at § 87(2)(b) and § 87(2)(b)	
I.POM Mark Jablonski	Force: PO Mark Jablonski used physical force against § 87(2)(b)	
J. Officers	Force: Officers used physical force against § 87(2)(b)	
K. Officers	Abuse: Officers refused to provide their names and shield numbers to § 87(2)(b)	

## Synopsis

On June 29, 2007, § 87(2)(b) of § 87(2)(b) § 87(2)(b) in Brooklyn filed the following complaint with the NYPD's Internal Affairs Bureau, log number § 87(2)(b). The case was referred to the CCRB on July 27, 2007. On June 24, 2007, § 87(2)(b) was waiting for food at a vendor stand on § 87(2)(b), in Brooklyn, with his friend, § 87(2)(b). Another friend, § 87(2)(b) approached them and asked § 87(2)(b) if he had any cigarettes. § 87(2)(b) had cigarettes in a Jeep that belonged to his girlfriend, § 87(2)(b). § 87(2)(b) and § 87(2)(b) walked over to the car while § 87(2)(b) waited for his food from the vendor. § 87(2)(b) retrieved the cigarettes from inside of the car, gave them to § 87(2)(b) and locked the car. § 87(2)(b) and § 87(2)(b) walked away from the vehicle when they were approached by PO Mark Jablonski and PO John Tancredi of the 67<sup>th</sup> Precinct [Allegations A and B]. PO Jablonski attempted to converse with § 87(2)(b) who responded that he did not speak with police officers. § 87(2)(b) voluntarily handed PO Jablonski his driver's license and agreed to be frisked by him.

PO Tancredi allegedly frisked § 87(2)(b). PO Tancredi asked § 87(2)(b) if he could frisk him and § 87(2)(b) agreed. PO Tancredi allegedly frisked § 87(2)(b) and felt keys in his pocket, which he removed [Allegation C]. PO Tancredi told PO Jablonski to handcuff § 87(2)(b) and § 87(2)(b) which he did. PO Tancredi then approached the car and looked into the Jeep, where he saw a firearm in plainview on the floor. The officers informed both men that they were under arrest. § 87(2)(b) approached the officers and asked them why they were arresting § 87(2)(b) and § 87(2)(b). PO Tancredi told § 87(2)(b) that it was none of his concern and instructed him to step back. § 87(2)(b) continued asking what the charges were against them. PO Tancredi allegedly pulled out his gun and pointed it at § 87(2)(b) [Allegation D]. Then, PO Tancredi allegedly stated, "Get the fuck back. I'll shoot me a nigger tonight." [Allegations E and F] § 87(2)(b) started dialing a telephone number on his cellular telephone and alleged that PO Tancredi smacked the phone from his hand and broke it [Allegation G].

PO Jablonski pulled out his gun, pointed it at § 87(2)(b) and § 87(2)(b) and ordered them to get on the ground [Allegations H]. § 87(2)(b) dropped to his knees and § 87(2)(b) lay on the ground. PO Jablonski allegedly kicked § 87(2)(b) in the back, which caused him to fall forward and his face hit the ground causing a laceration [Allegation I]. PO Jablonski then allegedly kicked § 87(2)(b) on his side [Allegation I, continued]. Additional unidentified officers responded to the location and allegedly threw § 87(2)(b) to the ground, punched him and kicked him [Allegation J]. He was handcuffed and escorted to a marked patrol vehicle by two unidentified officers. As the officers placed him in the car, they allegedly intentionally struck his head against the roof of the car [Allegation J, continued]. Two additional unidentified officers transported § 87(2)(b) to the stationhouse. § 87(2)(b) alleged that he asked these officers for their names and badge numbers as well as the names of PO Tancredi and PO Jablonski, but they refused to provide that information [Allegation K]. § 87(2)(b) and § 87(2)(b) were transported to the stationhouse. While in police custody, § 87(2)(b) asked PO Jablonski for medical attention. EMS responded and then § 87(2)(b) went to § 87(2)(b) and received stitches.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b) first provided a statement in his Ambulance Call Report on June 24, 2007 (encl. 17A-B) when he informed EMS that he was involved in a scuffle and was assaulted by police officers. He stated that he was kicked in the face by a police officer. He was interviewed at the CCRB on August 13, 2007 (encl. 9). At the time of this incident, he was a § 87(2)(b) black male, six feet tall, one hundred and sixty-five pounds, with black hair and brown eyes. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

On June 24, 2007, at about 2:00 AM, § 87(2)(b) was waiting for food at a fried chicken vendor on § 87(2)(b). His friend, § 87(2)(b) had been with him all day. They had been at the vendor for about fifteen minutes when § 87(2)(b) approached § 87(2)(b). § 87(2)(b) knows § 87(2)(b) because he lives in the same neighborhood. § 87(2)(b) asked him if he had any cigarettes. § 87(2)(b) told him that he had some in his Jeep. § 87(2)(b) then told § 87(2)(b) that he was going to get some cigarettes for § 87(2)(b) and would meet § 87(2)(b) in front of § 87(2)(b) which is § 87(2)(b)'s building residence. § 87(2)(b) denied exchanging anything with § 87(2)(b) or § 87(2)(b) at that time.

§ 87(2)(b) and § 87(2)(b) walked around the corner onto § 87(2)(b). The Jeep, which belongs to § 87(2)(b)'s girlfriend, § 87(2)(b), was parked on § 87(2)(b) from the front of § 87(2)(b)'s building. § 87(2)(b) used the alarm device to disable the car alarm, entered the passenger side of the Jeep and retrieved three cigarettes from the console. He gave the cigarettes to § 87(2)(b) and closed the door. § 87(2)(b) and § 87(2)(b) walked away from the Jeep. They were walking on the sidewalk and were about 1.5 to 2 car lengths from the Jeep when an unmarked vehicle pulled up to them. Two officers, POs Jablonski and Tancredi of the 67<sup>th</sup> Precinct, told them to stop.

§ 87(2)(b) described PO Jablonski as a white male who stands about 6'3" tall in his mid-thirties who weighs from 160 to 175 lbs. PO Tancredi stands from 5'3" to 5'8" tall. He is stockier than PO Jablonski and his skin is darker than PO Jablonski's. One of the officers asked them where the action was tonight. § 87(2)(b) replied that he did not know what the officer was talking about. POs Jablonski and Tancredi then left their vehicle. § 87(2)(b) told PO Jablonski that he "was not into the long conversation" and that he did not speak to police officers. He also said that he was going to provide his driver's license and PO Jablonski could do whatever needed to be done.

PO Jablonski looked at the license and ordered § 87(2)(b) to lift up his shirt and turn around. PO Jablonski asked § 87(2)(b) if he could frisk him and § 87(2)(b) agreed so PO Jablonski frisked him. PO Tancredi ordered § 87(2)(b) to lift up his shirt and turn around, and frisked him. § 87(2)(b) was carrying a bag with food inside and PO Tancredi looked in the bag. PO Tancredi then asked § 87(2)(b) if he could frisk him again. § 87(2)(b) agreed because he had not done anything wrong. PO Tancredi frisked him and felt something in his right pants pocket, which were § 87(2)(b)'s keys. PO Tancredi asked what the object was and § 87(2)(b) said they were keys. PO Tancredi reached into § 87(2)(b)'s pocket, pulled out the keys and observed the car alarm device. PO Tancredi told PO Jablonski to handcuff them. § 87(2)(b) asked why they were being handcuffed and PO Jablonski said that it was procedure. § 87(2)(b) stated that he was not going to argue because he had just come home after serving four years in prison. PO Jablonski handcuffed § 87(2)(b) and § 87(2)(b). PO Tancredi used the alarm device to disable the alarm and § 87(2)(b) heard the doors of the Jeep unlock. PO Tancredi entered the Jeep and began searching it but § 87(2)(b) could not see what or how he was searching the car. § 87(2)(b) asked PO Tancredi why he was searching the Jeep. PO Jablonski told § 87(2)(b) to calm down.

At that point, § 87(2)(b) saw § 87(2)(b) walking toward him and § 87(2)(b) asked the officers why § 87(2)(b) was in handcuffs and why he was being arrested. § 87(2)(b) stated that § 87(2)(b) was not acting in a loud or angry manner. § 87(2)(b) referred to § 87(2)(b) as "my brother" because he and § 87(2)(b) have known each other for twenty years. PO Tancredi said, "Back the fuck up,

this is a police matter.” He then pulled his gun, pointed it at § 87(2)(b) and said, “Yo, I’ll shoot me a nigger tonight.” § 87(2)(b) had a cellphone and was trying to make a phone call. PO Tancredi repeatedly ordered § 87(2)(b) to put his phone down. § 87(2)(b) responded by yelling at him to put his gun down.

PO Jablonski then pointed his gun at § 87(2)(b) and § 87(2)(b) and ordered them to get on the ground. § 87(2)(b) got on his knees and § 87(2)(b) lay on the ground. At that point, PO Jablonski kicked him in the back of the right shoulder. His face went into the ground, which caused a laceration to the right side of his face near the eyebrow. PO Jablonski repeatedly kicked him in the back and side. § 87(2)(b) continued yelling for PO Tancredi to put the gun down. The officers called for backup and a marked van arrived at the scene. § 87(2)(b) was lying with the right side of his face to the ground. He saw uniformed officers leave the van, run toward § 87(2)(b) and strike him against the Jeep. § 87(2)(b) stated that those officers were assigned to the 73<sup>rd</sup> Precinct, but he could not provide any physical description of them. About thirty officers were eventually on the scene. The officers took § 87(2)(b) away. § 87(2)(b) and § 87(2)(b) were taken in another direction and transported to a stationhouse in a marked van. § 87(2)(b) stated that he did not physically resist at any point. § 87(2)(b) was released from the stationhouse with a summons.

§ 87(2)(b) was standing at the desk when PO Jablonski walked into the stationhouse holding a firearm. § 87(2)(b) asked PO Jablonski, “What the fuck is going on?” and where he had gotten the firearm. PO Jablonski replied that § 87(2)(b) knew where he had gotten the firearm. § 87(2)(b) and § 87(2)(b) were in the Jeep together earlier in the day. § 87(2)(b) later told § 87(2)(b) that he had placed the firearm in the Jeep earlier. § 87(2)(b) said that he did not know that when he and § 87(2)(b) were stopped. § 87(2)(b) was charged with criminal possession of a weapon. § 87(2)(b) retrieved her Jeep, as well as § 87(2)(b)’s keys and wallet, two weeks later. § 87(2)(b) stated that none of his arrest paperwork mentions anything about a vehicle being involved.

§ 87(2)(b) was bleeding in the stationhouse. EMS paramedics were in the stationhouse when he was there and said that he needed medical attention. PO Jablonski said that they would take him to the hospital after he was interviewed. PO Jablonski quickly interviewed § 87(2)(b) and asked him about the firearm, but § 87(2)(b) said that he knew nothing about it. He told PO Jablonski that he had just served prison time for possessing a weapon, so he would not put himself in the same situation. § 87(2)(b) also denied ever possessing the firearm and said that he did not know anything about a gun being in the Jeep. PO Jablonski said, “Fine, you want to be tough? You can be tough all you want. It’s not going to look good for you. You just came home from doing this. We’re going to make this stick.” § 87(2)(b) said, “Do what you want to do. Can I please get some medical attention?”

§ 87(2)(b) was transported to § 87(2)(b), where he received seven stitches for the cut. § 87(2)(b) also showed the interviewing investigator a red mark on the top of his right shoulder and an abrasion to his right knee. Two officers from IAB interviewed § 87(2)(b) at the hospital. Two different IAB officers spoke to § 87(2)(b) in court prior to his arraignment. They interviewed him again and showed him photo arrays of officers. § 87(2)(b) was put through the system and was incarcerated at Rikers Island until § 87(2)(b). § 87(2)(b) had his stitches removed on § 87(2)(b), while incarcerated at Rikers Island.

## **Results of Investigation**

### **Civilian Statements**

§ 87(2)(b) was interviewed at the CCRB on August 13, 2007 (encl. 10). He is a § 87(2)(b)-year-old black male, five feet, ten inches tall, one hundred and eighty-five pounds, with black hair and brown eyes. § 87(2)(b)

§ 87(2)(g)  
He did not mention that § 87(2)(b) ever told him that he was going to obtain cigarettes from his girlfriend’s car and made no mention of § 87(2)(b) ever entering this vehicle. He § 87(2)(g)  
§ 87(2)(b) claimed that he approached PO Tancredi and was subject to PO Tancredi’s discourteous and offensive remarks before PO Tancredi searched the

Jeep, not after as alleged by § 87(2)(b). He also stated that § 87(2)(b) was kicked once in the shoulder, causing his head to move forward and hit the pavement, but he did not state how he knew this detail, nor did he allege that the officers used any further kicks against § 87(2)(b).

§ 87(2)(g)  
§ 87(2)(b) stated, “I assumed the position...my hands are behind my back. I’m being placed in handcuffs, they’re still beating.” The officers put him against a wall, over twenty additional officers arrived and threw him face down to the ground and pinned him down. Most of the backup officers were in uniform. Approximately five officers punched and kicked § 87(2)(b) in the back, face and legs. He estimated that he was punched ten to twenty times. § 87(2)(b) denied resisting arrest. § 87(2)(b) suffered bruising to his chin as a result. He also suffered scrapes and bruises. § 87(2)(b) was kicked in the back and suffered a cut to his face from hitting the ground that required seven stitches.

Two uniformed officers, a white male and a black male brought § 87(2)(b) to a marked car and struck his head against the roof of the car as they placed him inside. Those officers walked away and spoke to PO Tancredi and PO Jablonski after placing § 87(2)(b) inside the car. Other uniformed officers transported § 87(2)(b) to a stationhouse. § 87(2)(b) stated that the passenger was a short bald black male and the other was a light-skinned black male. § 87(2)(b) asked them for their names and the names of PO Tancredi and PO Jablonski, but they did not provide the information. IAB officers interviewed him at the stationhouse. § 87(2)(b) did not see § 87(2)(b) or § 87(2)(b) after that.

§ 87(2)(b) went to § 87(2)(b).

#### **Attempts to contact additional victims and witnesses**

§ 87(2)(b) provided a written statement to IAB on June 24, 2007 at 6:00am (encl. 14). He stated that he went to buy a “Loosie” and that two police officers came up to him and his friends. He did not know that § 87(2)(b) had put a gun in the car, but the officers searched § 87(2)(b) and § 87(2)(b) and then located the gun in a car. § 87(2)(b) complied with the officers. One of the officers, identified by the investigation as PO Jablonski, instructed him and § 87(2)(b) to get down. While an officer, later identified as PO Tancredi, was trying to place another civilian, identified by the investigation as § 87(2)(b) on the ground, § 87(2)(b) tried to get up and run. PO Tancredi told § 87(2)(b) to step back from his car five times, but § 87(2)(b) still kept coming towards the car and PO Tancredi. PO Tancredi told § 87(2)(b) to get down on the floor and § 87(2)(b) was still “going on,” so PO Tancredi called for backup.

Several attempts were made to contact § 87(2)(b) and schedule him for an in-person CCRB interview. On June 23, 2008, the undersigned sent a please call letter to § 87(2)(b). The undersigned also called him and § 87(2)(b) scheduled an appointment for July 1, 2008. On July 1, 2008, § 87(2)(b) missed his scheduled appointment and a missed appointment letter was mailed to him. On July 7, 2008, the undersigned called § 87(2)(b) and he rescheduled his interview for July 14, 2008. On July 14, 2008, § 87(2)(b) missed his second scheduled appointment. As of the date of this report, § 87(2)(b) has failed to cooperate with the investigation and has not provided a statement.

§ 87(2)(b) identified two individuals that he believed witnessed the incident, § 87(2)(b) and § 87(2)(b). § 87(2)(b) believed that they witnessed the incident from their apartments, through the windows. § 87(2)(b) was familiar with these individuals because they were his neighbors but he did not specify how he knew them to have witnessed the incident. On June 23, 2008, the undersigned called § 87(2)(b) and left a message. The undersigned also sent her a please call letter. On July 17, 2008, the undersigned called her again and left a message. A final please call letter was also sent to her. § 87(2)(b) has not yet responded to the undersigned investigator’s attempts to reach her. On June 23, 2008, the undersigned called § 87(2)(b) and left a message. The undersigned also sent her a please call letter. On July 17, 2008, the undersigned called her again and left a message. On July 17, 2008, a final please call letter was mailed to her. As of the date of this report, § 87(2)(b) has failed to respond to the undersigned investigator’s attempts to reach her.

EMTs § 87(2)(b) and § 87(2)(b) § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both of whom are employed by FDNY as EMTs, were interviewed at the CCRB on September 22, 2008. Although both men were listed on § 87(2)(b)'s ACR, neither recalled the incident.

#### **Witnesses located during IAB canvass**

According to the IAB casefile, Sgt. John Hanlon and Det. Vincent Bellizzi conducted a canvass of the vicinity on July 3, 2007 (encl. 13), during which time they located five civilian witnesses: § 87(2)(b). Although these conversations were not recorded, all civilians reportedly acknowledged observing the incident. They each claimed that the officers used a necessary level of force, and only seemed to use the force in order to apply handcuffs. Several witnesses noted that the civilians resisted and that one tried to get away.

#### **Officer Statements**

##### ***PO John Tancredi***

**A Complaint Report.** § 87(2)(b) was prepared by PO Tancredi, for § 87(2)(b) (encl. 16). The report noted that § 87(2)(b) hit one of the police officers and then resisted being arrested. § 87(2)(b) made several attempts to assist § 87(2)(b) in escaping police custody and he also incited a large and growing crowd to assist him. Throughout the incident, § 87(2)(b) made numerous racial comments which PO Tancredi noted "appeared to motivate his actions." A police officer sustained minor injuries. The **Arrest Report** for § 87(2)(b) § 87(2)(b) provided the same narrative as the complaint report regarding his arrest (encl. 16).

PO Tancredi was interviewed at the CCRB on September 2, 2009 (encl. 16). On June 24, 2007, he was assigned to the 67<sup>th</sup> Precinct anti-crime unit with PO Jablonski; since the date of occurrence, he has been promoted to Sergeant. He worked from 5:30pm on June 23 until 6:00am the following day. He was dressed in plainclothes and assigned to a black Impala, #§ 87(2)(b) in which PO Tancredi was the driver. In his **memo book**, PO Tancredi noted that at 2:01am two males were stopped at the corner of § 87(2)(b) § 87(2)(b) (encl. 16). Three minutes later a 10-85 (call for assistance) was called, and five minutes later there were three arrests at the location. He returned to the stationhouse at 2:24am, and § 87(2)(b) requested medical attention five minutes later for a laceration. EMS responded to the stationhouse at 2:34am.

On June 24, 2007, while at a red light, PO Tancredi observed two individuals walk away from the officers on the corner of § 87(2)(b), about 30 feet away. PO Tancredi used to be assigned to the Narcotics Division and was once a UC, and believed that he saw a hand-to-hand exchange between the two men, in which currency and cigarettes were exchanged, though he noted later that he did not actually see the money at this point in time. The men also had "that nervous look" and moved their heads side-to-side. They separated at the corner. § 87(2)(b) walked towards a parked car on the side of § 87(2)(b), while the other guy man, identified through the investigation as § 87(2)(b) remained at the corner. The car was about 2-3 car lengths away from where § 87(2)(b) had originally been. § 87(2)(b) was on the sidewalk by the passenger's side of the vehicle and opened the door. When the light turned green, the officers parked at the corner of § 87(2)(b) and PO Tancredi approached on the sidewalk, while PO Jablonski approached from the street. § 87(2)(b) did not see PO Tancredi approach until (PO Tancredi) was at the rear of the car.

§ 87(2)(b) leaned into the car and PO Tancredi could not see his hands. When § 87(2)(b) pulled back from the car, he saw PO Tancredi and then § 87(2)(b) turned his body away to prevent the officers from seeing his front side; he lifted his shirt with one hand, pulled an object from his waist, threw it into the car and slammed the front passenger door. PO Tancredi could not see the object, but heard a thud when the object hit the vehicle's floor. He did not know where PO Jablonski was at this time. PO Tancredi prevented him from closing the door and walked him to the back of the vehicle. PO Tancredi spoke to § 87(2)(b) who said, "I know what you're thinking." PO Tancredi left § 87(2)(b) with PO Jablonski and the other division that was originally with him. He went back to the vehicle, looked at the floor where the object was thrown, and saw a pistol on the floor by the place where a passenger's feet would be.

He walked to the back of the car and informed PO Jablonski that he had an arrest situation for both individuals. The men were frisked but this was incidental to the arrest, though PO Tancredi could not recall who conducted the frisks or when they were conducted. PO Jablonski did not search § 87(2)(b) prior to the officers' decision to make an arrest. § 87(2)(b) was compliant, but § 87(2)(b) who was closest to PO Jablonski, said, "I just got out, and I'm not going back." § 87(2)(b) started whistling to the people who were walking by. In response, a crowd of at least 20 people started to form. At this point, one perpetrator was in handcuffs, but PO Jablonski could not get § 87(2)(b) handcuffed. The officers were still at the back of the vehicle, but the firearm was unsecured in the front seat, near a door that was open. One member of the crowd, identified by the investigation as § 87(2)(b) was pushing PO Tancredi, and § 87(2)(b) signaled for him to get something from the car. PO Tancredi and § 87(2)(b) got into a "pushing match" on the sidewalk and the situation was getting out of control. § 87(2)(b) used open-palm hands to push PO Tancredi. PO Tancredi told § 87(2)(b) and § 87(2)(b) to get on the ground so that he could establish control and not have to worry about him running. Both perpetrators went to the ground, but members of the crowd were trying to physically pull § 87(2)(b) away. PO Tancredi tried to secure the gun, but § 87(2)(b) tried to push past him. PO Jablonski came over to PO Tancredi to assist him. Once he did, § 87(2)(b) got to his feet and began to run away.

Due to the size of the crowd, § 87(2)(b) could not pick up speed, and so did not get far. PO Jablonski caught up to him after about seven steps. § 87(2)(b) and PO Jablonski both fell to the ground, but PO Tancredi could not see how this happened. § 87(2)(b) hit his head because he was rear-handcuffed and could not use his hands to break his fall; PO Tancredi later clarified that he did not see this happen, but rather learned about it from his partner. PO Tancredi called a 10-85 and then recovered the handgun once other officers responded. PO Tancredi was not sure who handcuffed § 87(2)(b). The perpetrators were taken back to the precinct. PO Tancredi called central to request an ambulance for the laceration to § 87(2)(b)'s head, near his one of his eyebrows. This was the first time that PO Tancredi observed the injury.

PO Tancredi never drew his gun, nor did he ever see PO Jablonski pull his gun. He never threatened to shoot § 87(2)(b) or call him a "nigger," and he never told the crowd to "back the fuck up." He never kicked § 87(2)(b) in the back of his shoulder, nor did he see his partner do this. PO Tancredi also never smacked anything out of § 87(2)(b)'s hands. He did not remember if he ever searched a bag that § 87(2)(b) carried.

When presented with a copy of the arrest report indicating that § 87(2)(b) struck the officer (i.e. PO Tancredi), PO Tancredi could not recall § 87(2)(b) striking anyone. The day after the incident in question, PO Tancredi went to § 87(2)(b) to receive treatment for soreness to his right neck and left ankle, as a result of his struggle with § 87(2)(b).

#### ***PO Mark Jablonski***

A **Complaint Report** § 87(2)(b), was prepared by PO Jablonski regarding § 87(2)(b) (encl. 15). The report referred to § 87(2)(b) as "the above known perpetrator" and noted that he was found in possession of a loaded firearm. While PO Jablonski was attempting to place § 87(2)(b) in custody, he refused to be transported. A violent struggle occurred when § 87(2)(b) attempted to flee the scene. The 40 caliber firearm was vouchered, § 87(2)(b) with fourteen live rounds.

PO Mark Jablonski, a 6ft., 165lb. male who is § 87(2)(b)-old, was interviewed at the CCRB on September 2, 2009. In his **memo book**, PO Jablonski noted two males were stopped at the corner § 87(2)(b) at 2:01am (encl. 15). A 10-85 was called four minutes later, and there were three arrests at 2:09am. He returned to the stationhouse at 2:25am. His tour did not conclude until 9:00am.

§ 87(2)(g). PO Jablonski was unclear about how many times he saw § 87(2)(b) go to his vehicle and the point at which he dropped the object on the car's floor. He was inconsistent about whether this latter action occurred before or after he and PO Tancredi pulled up and asked to speak with the men. PO Jablonski stated that after he observed the object being dropped in the car, he directed both men to the rear of the vehicle and frisked them for his safety. He did not recall if he removed a set of keys from § 87(2)(b).

He also noted that PO Tancredi pushed § 87(2)(b) several times after § 87(2)(b) refused to go away. He did not explicitly state that § 87(2)(b) tried to get into the vehicle or that § 87(2)(b) gave any signal to § 87(2)(b) to obtain an object from the car.

PO Jablonski stated that, after § 87(2)(b) attempted to flee, PO Jablonski caught up to him, grabbed his arm and pulled him, causing both men to fall side-by-side. § 87(2)(b) fell face-forward.

PO Jablonski was not sure if § 87(2)(b) offered any resistance to the officers that handcuffed him, and PO Jablonski could not recall which officers these were. When presented with the arrest report narrative that noted § 87(2)(b) punched an officer, PO Jablonski noted that he was preoccupied with his perpetrators on the ground and could not account for the charge on the arrest report. § 87(2)(b) had a cut over one of his eyes, though PO Jablonski could not recall which one. He speculated that this injury occurred when § 87(2)(b) fell to the ground. He asked for medical attention and was transported to the hospital, where he received stitches. PO Tancredi sustained an injury, though PO Jablonski did not recall what it was or how it was obtained.

PO Jablonski never heard PO Tancredi use any profanity. He never drew his gun. He never heard PO Tancredi threaten to shoot § 87(2)(b) or call him a “nigger.” Neither PO Jablonski nor PO Tancredi ever kicked § 87(2)(b) or § 87(2)(b). PO Jablonski never saw § 87(2)(b) use a cell phone and never saw PO Tancredi slap a phone from § 87(2)(b)'s hand.

#### Medical Records

On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) while in police custody (enc. 17). The **FDNY ACR** noted that § 87(2)(b) had a laceration to his right eyebrow about half an inch in diameter with minor bleeding. The medical records noted that § 87(2)(b) stated that he was kicked in the left shoulder and sustained an injury from that. He had pain in the left shoulder and was dizzy. § 87(2)(b) received sutures for his injuries and was advised to take Tylenol for any pain.

On § 87(2)(b), § 87(2)(b) sought medical treatment at § 87(2)(b) in Brooklyn (encl. 17). An abdominal and retroperitoneal ultrasounds were conducted. § 87(2)(b) had normal abdominal and retroperitoneal sonograms. X-rays of both of his wrists showed there was no evidence of a fracture and they were normal. X-rays were also conducted on his lumbar spine. His spine was normal with no evidence of disc space narrowing.

#### Police Documents

A **SPRINT** was prepared on June 24, 2007, at approximately 2:04am, in which an officer requested two additional units to § 87(2)(b) (encl. 18). At approximately 2:04am, Sector J from the 73rd Precinct arrived at § 87(2)(b). At 2:05am, Sector C and Sector A arrived. At 2:05am, the Impact Sergeant stated that additional units responded and requested the operator to slow down the other units to the location as they were not needed. At 2:06am, the Executive Officer arrived at the location. At 2:06am, a criminal arrest was made at the location. At 2:06am, officers from the 67th Precinct arrived at the scene. At 2:08am, Sector M from the 67th Precinct transported one male back to the 67th Precinct. At 2:09am, three individuals were under arrest.

The Tour 3 **Roll Call** from the 73rd Precinct for June 23, 2007, listed Sgt. Florencio Arquer as the Impact Sergeant and PO Anthony Desposito as his operator (encl. 19). PO Jerry Sukhnandan and PO Joseph Mignone were assigned to Sector J and PO Joseph Weldon was assigned Sector C.

#### Notice of Claim

According to the New York City Comptroller's Office, as of July 1, 2008, there had been no notice of claim filed on behalf of § 87(2)(b) or § 87(2)(b) regarding the incident.



### Civilian CCRB and Criminal Conviction History

§ 87(2)(b) and § 87(2)(b) have not filed any other complaints with the CCRB. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Officer CCRB History

Neither PO Jablonski, a nine-year veteran of the New York City Police Department, nor PO Tancredi, a nine-year veteran, has any history of substantiated CCRB allegations (encl. 6).

### Conclusions and Recommendations

#### Officer Identification

Both PO Jablonski and PO Tancredi acknowledged that they were the officers that initially observed and approached § 87(2)(b) and § 87(2)(b) distinguished the officers by height and weight, and both officers admitted to participating in actions consistent with the roles described by the civilians. The officers conceded, for example, that PO Tancredi was the officer that searched the vehicle and primarily dealt with § 87(2)(b) while PO Jablonski, the taller and thinner officer, was the one that ordered both civilians to the ground and pushed § 87(2)(b) to the ground. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

#### Undisputed Facts

It is undisputed that § 87(2)(b) and § 87(2)(b) were hanging out near the corner of § 87(2)(b). At some point, § 87(2)(b) opened the door to his girlfriend's car to reach inside, and at some point he exchanged an object with § 87(2)(b) in a hand-to-hand motion. PO Jablonski and PO Tancredi approached both men and instructed them to go to the back of the vehicle, where they were frisked. PO Tancredi went to the car, and looked in the front passenger seat, where he claimed to have found a gun. § 87(2)(b) was handcuffed without incident and § 87(2)(b) was ultimately handcuffed. § 87(2)(b) approached the officers to determine what was going on. PO Jablonski told both § 87(2)(b) and § 87(2)(b) to go to the ground and both men complied. § 87(2)(b) and PO Tancredi became engaged in a verbal argument. § 87(2)(b)'s head somehow hit the ground, causing a laceration above his right eyebrow. § 87(2)(b) was arrested along with § 87(2)(b). § 87(2)(b) was ultimately released with a summons.

## Disputed Facts

§ 87(2)(g)

## Assessment of Evidence

§ 87(2)(g)

Both officers added that § 87(2)(b) and § 87(2)(b) looked suspiciously to their sides and appeared to be nervous. It was also undisputed that § 87(2)(b) went to his vehicle at some point, either to retrieve or discard an object. § 87(2)(g)

Both officers stated that § 87(2)(b) went to the car, and appeared to drop an object. PO Tancredi specified that he heard a thud, and that § 87(2)(b) looked at the officers and appeared startled after this occurred. § 87(2)(g)

§ 87(2)(b) claimed that he voluntarily submitted to the officers' requests that he be frisked, and alleged that § 87(2)(b) was also frisked. PO Jablonski admitted that he frisked both men. § 87(2)(b) further claimed that he voluntarily yielded to a frisk by PO Tancredi and that PO Tancredi then searched his pockets, recovered his car keys and used these to open the car door. PO Tancredi denied these allegations.

§ 87(2)(g)

After PO Tancredi saw a gun in plainview, he informed PO Jablonski to arrest both men. § 87(2)(b) was handcuffed without incident. According to the officers, § 87(2)(b) offered mild and passive resistance and said, "I'm not going back." § 87(2)(g)

§ 87(2)(g) Both § 87(2)(b) and § 87(2)(b) claimed that § 87(2)(b) only verbally protested § 87(2)(b)'s arrest, but that PO Tancredi pointed his gun at § 87(2)(b) and said, "Get the fuck back. I'll shoot me a nigger tonight," and swatted a cell phone out of § 87(2)(b)'s hand. Subsequently, numerous officers responded and allegedly beat § 87(2)(b) while PO Jablonski, in an unprovoked act, kicked § 87(2)(b) which caused his head to hit the ground, leading to his laceration. PO Jablonski then allegedly kicked § 87(2)(b) in his back and side. Both officers denied pulling out their firearms, but insisted that § 87(2)(b) was creating a dangerous situation by approaching the vehicle in which the firearm was located, and stated that PO Tancredi engaged in a pushing match with § 87(2)(b) to prevent him from coming closer. They further alleged that § 87(2)(b) tried to flee while PO Tancredi was preoccupied with § 87(2)(b) but that PO Jablonski caught up to him and grabbed him, causing both men to fall to the ground, and leading to § 87(2)(b)'s cut. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation A: PO Mark Jablonski stopped** § 87(2)(b) **and** § 87(2)(b)

**Allegation B: PO John Tancredi stopped** § 87(2)(b) **and** § 87(2)(b)

§ 87(2)(g)

Barry Kamins's New York Search and Seizure notes that a stop has occurred when an individual is "actively or constructively detained by virtue of a significant interruption of his liberty of movement" (encl. 3A). In citing Criminal Procedural Law §140.50 (3), Kamins further notes that an officer may stop and frisk an individual when he has reasonable belief that a crime has been committed and he "reasonably suspects that he is in danger of physical injury" (enc. 3B). § 87(2)(g)

§ 87(2)(g)

**Allegation C: PO John Tancredi searched** § 87(2)(b)

§ 87(2)(g)

**Allegation D: PO John Tancredi pointed his gun at** § 87(2)(b)

**Allegation H: PO Mark Jablonski pointed his gun at** § 87(2)(b) **and** § 87(2)(b)

§ 87(2)(g)

. While the NYPD has no formal procedure outlining when officers can use their firearms, prior administrative case law outlines situations in which an officer can use his or her firearm. PD v. Gliner (OATH Index No. 955/00) states that "an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own or another's personal safety" (encl. 5). § 87(2)(g)

§ 87(2)(g)

**Allegation E: PO John Tancredi made remarks to** § 87(2)(b) **based upon race.**

**Allegation F: PO John Tancredi threatened** § 87(2)(b) **with the use of force.**

**Allegation G: PO John Tancredi acted rudely towards** § 87(2)(b)

**Allegation J: Officers used physical force against** § 87(2)(b)

**Allegation K: Officers refused to provide their names and shield numbers to** § 87(2)(b)

§ 87(2)(g)

**Allegation I: PO Mark Jablonski used physical force against** § 87(2)(b)

§ 87(2)(g)

As established in Patrol Guide Procedure 203-11, officers can use the “minimal amount of force necessary” to bring perpetrators under control for arrest (encl. 4). § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: